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The Initiative and Referend  
Effective Ally of Represent  
Government

by

Lewis Jerome Johnson



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THE  
INITIATIVE AND REFERENDUM  
AN EFFECTIVE ALLY  
OF  
REPRESENTATIVE GOVERNMENT

BY  
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SIXTH EDITION.

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#### NOTE TO THE FOURTH EDITION

The most important additions to the Fourth Edition are

(1) A brief description of the Oklahoma method of informing voters on the merits of questions submitted to them ;

(2) New evidence from Switzerland that her excellent government is to be attributed to her perfected representative system.

There has also been some rearrangement and a general revision.

#### NOTE TO THE FIFTH EDITION

In the Appendix of the Fifth Edition is printed the text of the Amendment of the Constitution of Massachusetts, authorizing the Initiative and Referendum, proposed in 1911 by the Massachusetts Direct Legislation League.

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# THE INITIATIVE AND REFERENDUM

## AN EFFECTIVE ALLY

OF

## REPRESENTATIVE GOVERNMENT

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OUR fathers founded this government in order to secure for the people—all the people—the blessings of life, liberty and happiness. They devised institutions and machinery to that end.

To-day, after the lapse of a century and a quarter, combinations of power have grown up under these institutions in the face of which, for multitudes of our population, life is precarious, liberty practically despaired of, and happiness, except of a kind enjoyed by the Roman proletariat or the plantation slave, unknown. We know that no one would be more impatient of such conditions than our revolutionary forefathers, and no one more resolute in seeking a remedy. Honor to their memory requires us to scrutinize their work, and to modernize it if necessary, **just as they modernized their inherited institutions.**

### **Ideals of the Fathers Not At Fault.**

Accordingly we turn first to the spirit and purposes underlying our institutions. We find nothing to criticize, even after all this time. We can suggest no improvements in this quarter. Even now we are inspired with a new

enthusiasm by the ideals expressed by our fathers in founding this Republic, the ideals so impressively reaffirmed by Lincoln at Gettysburg.

### Scrutiny of their Governmental Machinery.

We turn next to the details of their governmental machinery. Little is left of their industrial methods and institutions, and perhaps their political devices too are out of date. If they are, possibly it is not too late to supplement them or replace them with better.

The legislative machinery underlies all else. We observe that our law-making is entrusted to representative bodies. The make-up of these bodies is, nominally at least, under public control, but the output (except amendments to state constitutions) is not even nominally under public control, except as such control may be exerted through pressure upon individual representatives. When we consider the extent to which such pressure is exerted to-day by the greedy and highly organized few, rather than by the merely normally interested and unorganized many, a legislative system which may have been safe once comes to look decidedly defective.

### A Fundamental Defect.

Further reflection convinces us that this lack of adequate popular **control of results** is not only a defect but is *the fundamental* defect in our legislative mechanism. Its correction is therefore essential, and is logically the first step in the modernization of our political machinery. This done, improved legislation is assured as fast as the majority can agree upon it. This done, all unnecessary and undesirable obstacles to progress will have been minimized. Until this is done, we have little reason to hope for permanently better conditions, except at an utterly unreasonable cost in effort and delay. The importance of concentrating attention upon this issue is manifest.

### What Can Be Done.

The next question is, How shall the public **get** adequate **control of results**?

The answer is, We must assert our natural right to revise the work of our representatives. We must do this revising ourselves. There is no one else to do it. To do it we must supplement the existing legislative machinery with a workable, orderly, and properly guarded contrivance to enable us to enact laws, to veto them, to amend them or to repeal them by direct popular vote over the head of legislatures and city councils, in the instances when these bodies fail to meet the public will. In other words, we must considerably extend the practice of direct legislation by the people, already familiar to us in the New England town-meeting, and in the popular ratification of amendments to state constitutions.

Fortunately the way to do this has been devised and tested and has met expectations on a city-wide and state-wide scale. It involves two devices developed in the last few decades, the Initiative and the Referendum, now included under the single term Direct Legislation.

### Initiative and Referendum.

The **Initiative** enables the people to enact desirable measures by direct popular vote, when such measures have been or are likely to be ignored, pigeonholed, amended out of shape, or defeated by the legislature. Measures passed in this way may be entirely new laws, or they may, of course, amend or repeal existing laws.

The **Referendum** enables the people, by direct popular vote, to veto recent enactments of their representatives.

The Initiative corrects sins of omission.

The Referendum corrects sins of commission.

The Initiative is set in operation by volunteer groups of citizens,—civic, labor, or mercantile organizations,—

who draw up laws which they think good for themselves, or the public, or perhaps both. If they can get a certain moderate percentage\* of the voters of the city or State to sign the requisite petition the measure goes to the council or legislature, and if this body refuses to adopt it within a specified time without amendment, the measure must be transmitted unchanged to the people for their decision. If the legislative body thinks it can produce a better enactment to the same effect, it may draw it up and send it to the people, with the other, as a competing measure. The voters then choose between them, or reject both. In some jurisdictions, notably Oregon, initiative measures go directly to the people without previous submission to the legislature.

The Referendum, likewise upon petition,\* brings newly passed legislation to the popular tribunal for veto or confirmation.

The need of interference with the work of the representatives is greatly reduced by the mere existence of the system, and the number of laws actually coming to popular vote is a small fraction of the whole.

### **The Recall and Its Relation to Direct Legislation.**

Direct Legislation is likely to result, before being long in operation, in the establishment of the Recall, which is the properly guarded power of removal of unsatisfactory officeholders before the expiration of their terms. Thus the people gain the power of removal, the logical supplement to their already existing power of election.

The Recall, though obviously a device indispensable for popular control, and usually, in city charters, established simultaneously with Direct Legislation, will not be dis-

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\*The number of signatures required in these petitions ranges, in different states, from five to eight per cent of the voters for initiative petitions for ordinary laws; from eight to fifteen per cent for initiative petitions for constitutional amendments; and from five to ten per cent for referendum petitions. The usual percentages are eight for initiative, and five for referendum petitions.



cussed further here. It should be looked upon as one of the numerous desirable but subordinate measures, like Preferential Voting, Direct Nominations and the Short Ballot, which may safely be left to be gained by subsequent enactment in the larger jurisdictions like our states. This is strikingly true in Massachusetts where the Recall has been authorized in the Constitution since its adoption in 1780, as will be seen from Art. VIII of that Constitution quoted below, and could, probably, unlike the Initiative and Referendum, be made operative without constitutional amendment.

### **Furnishing Information to Voters.**

The Initiative and Referendum, as now advocated, carry with them, of course, adequate and systematic means, independent of the newspapers, of furnishing each voter the full text of the measures to be voted on; the condensed form in which they will be printed on the ballot; statement of the reasons for and against each measure; and the names of those behind each proposition.

In Oregon, the Secretary of State edits this information and mails it in pamphlet form to each voter in the State fifty-five days before election. At least eight weeks have elapsed by that time since the circulation and filing of the petitions. This is found to afford ample time for deliberation and discussion, and the pamphlet provides an adequate basis for decisions. Those who wish to insert arguments in this pamphlet pay the cost of paper and printing—some eighty dollars per page—and the State bears the rest of the cost of the pamphlet and its distribution. In initiative cases, supporting arguments are accepted from none but duly accredited representatives of the friends of the measure; any one who will pay the cost, however, may insert arguments against such a measure. In referendum cases arguments upon either side may be inserted by any

one willing to pay the cost. In the election of June, 1908 when nineteen measures were acted upon by the electorate, the State Pamphlet was a document of one hundred and twenty-five octavo pages.

Oregon voters protect themselves still further from false or misleading campaign literature by a provision of their admirable Corrupt Practices Act—a comprehensive measure, based on English practice, which came from the people by the Initiative—which prescribes a heavy penalty for circulating political literature without the names of its authors and publishers.

In Oklahoma, there is a State Pamphlet for informing voters as in Oregon, but with some interesting differences in detail. In Oklahoma, as is proposed in Massachusetts, initiative measures go first to the legislature. Hence all popular voting is upon measures which have had recent legislative action. A joint committee of House and Senate is therefore naturally called upon to prepare the arguments supporting the legislature's position. The opposing argument is drawn up by a committee representing the petitioners.

The argument for each side of each measure is restricted by the Oklahoma law to two thousand words, one-fourth of which may be in answer to opponents' arguments. The direct argument on each side is prepared and submitted to the Secretary of State, who transmits it to the opposing side to serve as the basis for the rebuttal just mentioned and thus complete the argument. These arguments on all the questions are then assembled in the State Pamphlet and distributed to all the voters of the state a suitable number of weeks before the election. The cost of printing and distribution is borne by the public treasury.

The Oklahoma plan has some striking merits. It requires the Legislature to state the reason for the action which it has taken. Doubtless this reason is often good

and sufficient, but perhaps more certainly so when the lawmakers know in advance that they may have to defend their position. The legislature's views on the measure should be of great value to the voters.

More important still, it ensures the presentation of a negative argument. Experience in Oregon has already shown that a negative argument is not always forthcoming when left to be supplied by volunteers. A campaign of silence is sometimes wisely preferred by interests at whom an initiative measure is aimed, to the revelation of weakness which would result from a formal attempt at defence. They well know that voters are likely, from sheer force of habit, thoughtlessly to concede more in the defence of a long established wrong than its beneficiaries would dare claim for it. The Oklahoma plan of informing voters requires each side to show its hand. Bluffing is eliminated. Privilege has to come out in the open and state such case as it has. Silent contempt is not permitted to do duty as argument.

Both the Oregon and the Oklahoma systems of disseminating information do much to forestall the misleading of voters through the newspapers. Some expense is involved, but this point is not apt to be pressed except by those opposed to the whole system on other grounds. The body of voters well understand that one bad law or one carelessly granted franchise may cost the public in actual dollars and cents many times the cost of the State Pamphlet.

### **Hopeful Outlook for Representative Government.**

Supplemented by the Initiative and Referendum, to serve as a permanent background, and for application when called for, the representative system will gradually but surely enter upon a period of honor and usefulness hitherto never surpassed and probably never equaled. Relieved of the unnatural excess of power under which they

now stagger and sometimes fall, legislative bodies will cease to be attractive objects for bribery and secret influence. Log-rolling will greatly diminish. The power of bosses and rings will be undermined. Seats in the legislatures will then begin to be unattractive to grafters. At the same time they will become more attractive to high-minded, public-spirited citizens. There will be a fairer chance that a man clean when elected will stay clean. It will make it safe to reduce the size of legislatures and to diminish greatly the number of elective officers. The party machines and bosses once permanently out of control, we may reach the point of competing successfully with the corporations in attracting the best young talent to the public service.

With Direct Legislation in vogue, it is not necessary to retire a faithful legislator to express disapproval of some of his measures. The electorate, while returning the man to office, can overrule the measures with no more reflection on his honor or usefulness than is involved in the overruling of a lower court by a higher. Honest and able representatives are hence likely to be repeatedly re-elected. Long tenure is as valuable to public as to private business. Where the people have been in control long enough for this result to show as in Switzerland and in the New England towns, they are seen to act upon this principle. In Switzerland it is rare that a new member appears in a legislative body except to fill a vacancy due to death or voluntary retirement. In New England towns it is common for faithful officials to be retained in office practically for life, their annual re-elections being frequently uncontested.

With a seat in the legislature thus robbed of its charms for all but the public-spirited, and with re-election practically assured to men of proved merit, real legislative experts in good number may gradually be developed.

**Representative Government Yet to Be Given a Fair Trial.**

In view of such untested possibilities, it is beside the mark to wonder whether representative government is a failure. We begin to realize that it has not yet been fairly tried, at least not in recent years. We realize that our legislators have been working under almost intolerable conditions. They have been continually exposed to temptations that no ordinary man ought to be asked to face, and it is a tribute to human nature that so many of our legislators have stayed straight. Under Direct Legislation legislators will have all the power that is ever accorded to representatives and agents in business, which is all that is wholesome or attractive to worthy citizens of a democratic republic. That final enacting power is far from essential to the dignity of a legislative body is shown by the universal respect in which our American constitutional conventions have always been held.

**Improved Status of the Voter.**

While a sufficiency of power is thus left with the representatives, a salutary increase of responsibility is thrown upon the voter. It brings him, to some purpose, into closer touch with great affairs. It enables him to vote for measures apart from men, and for men apart from measures. He can begin to assume the stature of a man, to become a sovereign in fact as well as in fancy. It will enable him to settle something at an election besides the party label of officeholders, which in turn settles little except which faction shall dispense the spoils of office. For we know only too well that platforms are "merely to get in on, not to ride on." Even if they were expected to be observed, platforms are composites which rarely represent, except in the roughest way, the views of any one thoughtful voter.

### Simplicity of the Voter's Task.

The new task proposed for the voter, though inspiring, is relatively simple. It differs widely from legislation in the ordinary sense.

The originating and drafting of bills can manifestly never fall as a burden on the mass of the voters. For this service the community can always command ability as wise, disinterested and as practised in legislation as any who now do such work. The average voter's part in the work is deliberation, discussion and the registry of his decision. This is no new task for him; the only novelty is in having a chance to do it intelligently, and to see his decision go into effect.

The voter, going into the booth, has known for months just what is coming up and in just what form it is coming up. There is no thought of possible amendment. With regard to each measure he has simply to approve or reject. He has had plenty of time to make up his mind. If a measure is objectionable in purpose or form, or is lacking in clearness, he will of course reject it and await—or cause—its reappearance in a more acceptable form at a subsequent election.

The voter is thus more like a juror than like a legislator. His capacity for intelligent, discriminating work at a single election is therefore large—much larger, as experience shows, than at first thought might seem possible.

In 1909, for example, the voters of Portland, Oregon, in a city election, besides voting for mayor and other officers, voted discriminatingly and with sustained interest on thirty-five measures, thirteen of which they passed. The average vote on each of the thirty-five measures was slightly over eighty-one per cent of the total vote for mayor, with a range from seventy-five per cent to ninety per cent. The majorities, both yes and no, were sometimes heavy, sometimes light. There is every evidence that the voting in each case reflected the calm judgment of the voters.

In Denver, in the election of May, 1910, the voters, besides electing city officers, dealt discriminatingly with a list of twenty-one measures, some of them trickily worded. Moreover, in this case, they had to face an enormous corruption fund and all that the combined party machines, and selfish interests could do to mislead. The result was a triumph for the people at every significant point.

The people's capacity for Direct Legislation is not likely to be subjected to severer tests than it has already stood with signal success.

### **New Talent Freely Enlisted for Public Service.**

Through Direct Legislation, the State will offer an attractive field of usefulness for such of her citizens as do not care to give up their whole time to public life. Public-spirited citizens, without dislocation of business or profession, may and will devote a much larger share of their time than now to the consideration of public questions. If they conceive of a desirable step in legislation, they will not have to contrive to get into office and to stay there long enough to accomplish their ends. They have a dignified and honorable method of presenting to the final authority, for adoption or rejection, the best fruits of their labors, free from the risk of mutilation or distortion by ill-informed, overworked, or corrupt legislatures. This alone would be a powerful means of bringing spontaneously to the public service, and at no expense, a large amount of talent of the best possible sort for which there is now little encouragement in public life. This is the talent on which we probably must depend for the most serious law making, and which we have had little chance to utilize. The legislature will thus be facing a reasonable and wholesome competition and the public cannot fail to profit thereby.

**Direct Legislation a Safeguard against Mob Rule.**

Sometimes officeholders or party machine men profess a great fear that Direct Legislation will result in "mob rule." This must be taken to mean that they fear, probably with reason, that the people, after weeks of deliberation and with adequate information, would not support their pet schemes. Prospective abundance of popular majorities in their favor would neither excite their alarm nor be called by them "mob rule." No ; mob-action finds a more promising field in nominating conventions, and even town meetings than in the long process of gathering signatures, weeks of discussion and deliberation, and the quiet vote on an Australian ballot in isolated, individual booths.

Direct Legislation is not only a safeguard against mob rule, but against the only thing likely with us to lead to violent revolution, namely, machine rule for the benefit of the privileged few. Majority rule precludes both mob rule and machine rule, for majority rule brings into play the great patient mass of honest, hardworking citizens, ordinarily silent and little felt. They abhor alike the violent methods of the mob and the intriguing of "politics." No less do they shrink from making themselves individually conspicuous in hopelessly protesting against powerful wrongs which they can, though they ought not to, endure. They are likely to suffer in silence until driven to extremes, rather than seek relief through the distasteful and inadequate means now at their disposal.

To provide the people with orderly and regular means of expressing themselves on equal terms with all their neighbors, with the certainty that their will thus expressed will take effect, is the logical way to ensure the healthy and natural progress which in the long run is the only preventive of violent upheaval.



### **Deeper Value of Direct Legislation.**

An additional advantage in Direct Legislation is the education which it affords the average voter. One cannot help believing that the consequent toning up of the public standard of thought and morals would be in the long run the most important feature of the system. Direct Legislation tends thus automatically to produce a highly trained and self-respecting electorate, and to lay the deepest and most promising foundation for permanent good government.

Direct Legislation is the only orderly means known for accurately and unmistakably expressing the public will as to legislation, and for making it prevail. It gives at last a fair approach to a proper and worthy means of registering public sentiment, well defined by some one as "the deliberate and reasoned judgment" of the people. It is as effective a balance wheel against mere popular clamor as it is a safeguard against the silent scheming of the crafty few. Direct Legislation thus opens for the first time a fair prospect for the early realization of the cherished American ideal—a government by as well as of and for the people.

### **Development of Direct Legislation.**

The Direct Legislation idea is no novelty among free peoples. It may be seen in the institutions of the Plymouth Colony. It appears in our time-honored New England town meeting and the even more ancient Swiss *Landesgemeinde*, and German folk-moot, all of them perfect exemplifications of the Direct Legislation principle on a small scale. It appears in our popular ratification of state constitutions and their amendments, usually insisted upon from the first, in spite of the pitifully inadequate facilities of our early days.

More recently, we note the steady extension of Direct Legislation through the Initiative and Referendum from canton to canton in Switzerland, its application to Swiss

federal legislation—the Referendum in 1874 and the Initiative for constitutional amendments in 1891—and its adoption in the last decade by city after city and State after State in this country. Direct Legislation (usually accompanied from the start by the Recall) is an essential feature of nearly all modern city charters, and those without it will doubtless have to add it sooner or later to get satisfactory results. Notable among the Direct Legislation cities stand Los Angeles, Des Moines, our own Haverhill and Gloucester, and the newest recruits, Berkeley, Cal., Colorado Springs, Grand Junction, Col., and Burlington, Ia. Similar examples among the States are South Dakota since 1898, Oregon since 1902, Montana since 1906, Oklahoma since 1907, Maine and Missouri since 1908, and Arkansas and Colorado in 1910.

#### How it Works in Switzerland.

For examples of the effect of Direct Legislation, we naturally turn first to Switzerland, where it has been in operation on what may be called a large scale for fifty to eighty years. With the aid of Direct Legislation as a result of its moral influence as well as by its direct application, Switzerland has, *wherever she has applied it*, rid herself of the misrule and exploitation which were previously rampant, as they had been for centuries, in all but the minute but ultra-democratic cantons.\* Thanks to sound democratic idealism supported by suitable machinery for its expression she has now come to be an admirably governed country.

Mr. James Bryce, the present English ambassador to the United States, declared to a Cambridge audience in 1904 that Switzerland is the most successful democracy that the world has ever seen.

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\* It is to these little cantons, including less than ten per cent, of the area, and less than seven per cent of the population of the present whole country, that Switzerland owes her otherwise quite undeserved reputation for century-old free political institutions.

Further expert testimony to what is generally known and admitted by the well-informed and disinterested is hardly needed, but the New International Encyclopedia in its article on Switzerland, expresses it so naïvely that it may be worth citing. After a lengthy account of the civil wars and political turmoil in the early part of the nineteenth century, it disposes of the rest of the century with the single remark that "the history of Switzerland for the past quarter of a century has been very uneventful, though marked by a steady material, intellectual and political growth."

All this does not mean that Switzerland is an unalloyed paradise. Some of the great human problems seem as far from solution in Switzerland as elsewhere. It does mean that the government promptly reflects public sentiment, and at the same time is free from violent fluctuations of policy. It means that the government is administered efficiently, and in the interest of the public good. It means that Switzerland, with a form of government modelled largely upon our own, by a modification which might have been suggested by our Declaration of Independence, has secured good government in a democratic republic.

### **Old-Fashioned Methods Survive in One Canton.**

The excellent results in Switzerland are to be seen not only in her federal affairs but also in the affairs of an overwhelming majority of her cantons. We must not, however, overlook Canton Fribourg, the only one of the twenty-two Swiss cantons as yet unable to equip herself with the Initiative and Referendum. She has still the unperfected or "pure" representative system characteristic of our American states and cities and of the old times in the rest of Switzerland. This brings with it, there as here, boss-rule and all that boss-rule implies. The legislative body is nominated by the boss, elected by the people

and managed by the boss. Prominent citizens are skillfully kept in line by a share in the plunder for themselves, or for their churches or philanthropies, or by fear of loss of favor with the two chief banks, both creatures of the boss. There is bribery, extravagance, subordination of the general interest to private business, the heaviest per capita cantonal debt in Switzerland, and the public apathy which naturally follows wide-spread hopelessness. The agitation for the Initiative and Referendum is still kept up by Fribourg patriots as their only hope, but all orderly means of success are in the control of the boss who, of course, fights them and will fight them for his political life.\*

#### **Initiative and Referendum Most Developed in Important Centers.**

As a contrast to Fribourg, it should be observed that the chief cantons of Switzerland, Berne and Zurich, the former a farming, the latter a manufacturing canton, both far in the lead of their neighbors in population and importance, are among the cantons having the Initiative and Referendum in their most radical and readily workable form. Zurich is clearly the most advanced of the cantons in this respect, and Berne is surpassed, and at that only slightly, by few besides Zurich.

In short, where the Initiative and Referendum are most readily set in motion, there have developed clean government and leadership in civic and industrial growth. In the only canton where there is neither the Initiative and Referendum nor pure democracy, there is misrule and political apathy of the familiar American type.

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\* This bit of evidence from Fribourg is drawn from an article entitled "The Only Political Boss in Switzerland" by George Judson King, Secretary of the Ohio Direct Legislation League, in the *Twentieth Century Magazine* for July, 1910. The article is based on recent personal observations in Canton Fribourg.

### Switzerland an Adequate Precedent for American States and Cities.

The Swiss success under perfected representative government may reasonably be expected to be repeated in this country, for the strength of the system lies in giving common human nature a fair chance to do itself justice. Human nature in Switzerland is very much like that elsewhere. That it is like that in this country is to be seen from the fact that representative government without direct popular control results in demoralization and bad government there just as it does here, and in just the same way there as it does here.

It is sometimes suggested, however, that little Switzerland, good as her results are conceded to be, is not an adequate precedent for an immense nation like the United States. But a small nation may exemplify a principle essential to the success of a large nation. An ocean liner must obey the laws of steam-engineering as well as a tug-boat. A sound fundamental principle holds regardless of the scale of the enterprise. That a self-governing people must have effective control over the laws under which they live would seem to be a principle of this kind. Details may require adjustment, but the principle will hold. But all that aside, the important comparison is not so much with our nation as with our cities and states. Switzerland, unhomogeneous in population, pre-eminently a manufacturing nation, larger than Massachusetts, Rhode Island, and Connecticut combined, with a population slightly larger than that of Massachusetts is plainly an excellent precedent for the adoption of Direct Legislation by individual American cities and States.

Moreover there may never be need for a federal Initiative and Referendum system for this country. With the rings once permanently ousted from our cities and states, the federal government should automatically run

clear. For the rings that do the plundering at Washington could manifestly not long survive without their intrenchments in the cities and states. At any rate, it is obviously correct tactics now to go right ahead for the Initiative and Referendum in states and cities. Our only disappointments with it, judging by experience elsewhere, are likely to arise from excessive restrictions which the legislatures may impose upon it.

### **New England States Especially Fitted for Direct Legislation.**

New England, the home of the town meeting, enjoying the inspiration of the Massachusetts and other New England States Constitutions, with Maine already in the Direct Legislation ranks, may be expected to take especially kindly to this new and long step toward the realization of her ancient ideals.

The real questions for us in New England to answer are:

1. Are we *now* as fit for this forward step as the Swiss *were* when they were putting the system in operation *thirty to fifty years ago*?
2. Is not even a complicated law, properly explained and vouched for, as suitable a thing for a popular vote as a choice between complicated candidates whose actions no one can foresee?
3. Is not an occasional vote on an ordinary law a natural and reasonable addition to our time-honored system of popular votes on State constitutions and their amendments?
4. Is it not worth while to disentangle measures from men and submit to popular vote definite and distinct propositions instead of mixtures of candidates, parties and platforms?

### Encouragement from Oregon.

To ask these questions in America is to answer them in the affirmative. All parts of the country are coming to see the point. Oregon, nearly half as large again as all New England combined, is setting us a most encouraging example.

Seven years ago she adopted Direct Legislation. She was then deep in political corruption. Thanks to the Initiative, and measures secured with it which legislatures had refused to pass, she has made great progress toward better government and the house-cleaning is going right on.\*

The outcries of the local plunderers show that they feel their power slipping away. Their intrigues for the destruction of the Initiative and Referendum show that they know the cause.

### What the Fathers were Trying to Do.

We shall be interested to see how Direct Legislation fits in with the ideas of our wonderfully far-sighted and successful constitution framers. It will be worth while to quote a few passages from the Constitution of the Commonwealth of Massachusetts—the oldest of their works—the spirit of which is no stranger in other parts of the country. Articles V, VII, and VIII of that honored document will give the ideas of the fathers on the relation of the people to their representatives:

Article V. All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive, or judicial, are their substitutes and agents, and are at all times accountable to them.

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\* See the speech of Senator Bourne of Oregon in the U. S. Senate, May 5, 1910 (obtainable from the Massachusetts Direct Legislation League), for an extended description of this remarkable work. Senator Bourne, a Republican, and by birth a Massachusetts man, and his colleague, Senator Chamberlain, a Democrat, born in Mississippi, are alike active advocates of the Initiative and Referendum, after observing its eight years of operation in their home state.

Art. VII. Government is instituted for the common good; for the protection, safety, prosperity, and happiness of the people; and not for the profit, honor, or private interest of any one man, family, or class of men: Therefore the people have an incontestable, unalienable, and indefeasible right to institute government; and to reform, alter or totally change the same, when their protection, safety, prosperity, and happiness require it.

Art. VIII. In order to prevent those who are vested with authority from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life; and to fill up vacant places by certain and regular elections and appointments.

### **Lack of Steam and Electricity the Obstacle to Direct Legislation at the Outset.**

On reading these sturdy New England doctrines one must conclude that the only reason why the fathers did not then and there establish Direct Legislation for the State and for cities as they might develop, was that it was at that time physically impossible. Mechanical invention had not advanced far enough to permit it even if they had conceived the idea. We must not forget that their facilities for disseminating information and gathering returns were little superior to those of Julius Cæsar. They knew no more of railways than Cæsar did, such highways as they had were not so good as Cæsar's. But they resolutely did all that was practicable under the mechanical conditions of their time. They provided an obligatory referendum on the adoption and amendment of the Constitution of the Commonwealth, even though it might and did take weeks to put the matter to vote and get the returns. And it is clear that nothing was farther from their minds than that the will of representatives should prevail over the will of the people, some modern officeholders to the contrary notwithstanding.



Now that Direct Legislation, as a working institution on a large scale, has become a possibility through the introduction of the modern means of spreading news and ideas by the telegraph, high-speed printing press, and the railway, we can proceed from the point where the fathers were forced to stop and can vindicate more clearly than ever the soundness of their noble idealism.

### **An Attractive Outlook.**

In closing it may be said that the Initiative and Referendum appeal particularly to progressive Americans in whom still lives the spirit of the liberty-loving men who founded this nation. Such citizens readily comprehend the necessity of controlling the important RESULTS, and of not limiting themselves to toying at government while privilege does the governing. They take great satisfaction, moreover, in a remedial measure so thoroughly in harmony with the old ideals and institutions. It involves, after all, only a bit of additional machinery, and depends for its success only upon our fitness for self-government.

Of course Direct Legislation is only a piece of mechanism. It will not suffice merely to set it up. It must be made to work promptly and with vigor when required. This will take real citizens. Oregon shows that such citizens still exist—some of them of New England or other American stock, some of them born in old-world monarchies.

The success in Switzerland; the steady progress and gratifying results in America; the strenuous opposition by favorites or managers of political machines; the misrepresentations by professional lobbyists and conspicuous officeholders, echoed in ready-made "editorials," all indicate that the Initiative and Referendum are measures justly

destined to receive an increasing amount of public attention and regard.

With the Initiative and Referendum in force, we shall be equipped as never before to resist enemies from within; enemies far more dangerous to our freedom than any foreign foe.

The Initiative and Referendum may well be the means of instituting on a permanent basis the responsible kind of representative government which our fathers lived and died to secure.

The Initiative and Referendum may well prove to be the salvation of the momentous experiment led by Jefferson, Hancock, Franklin, the Adamses and Washington.



## APPENDIX.

How simple an enactment would suffice to establish Direct Legislation in Massachusetts can perhaps best be shown by quoting in full the constitutional amendment brought before the 1911 legislature (House Bill No. 365) by the Massachusetts Direct Legislation League.

## ARTICLE OF AMENDMENT.

The legislative authority of the commonwealth shall be vested in the general court; but the people reserve to themselves the initiative which is the power to propose acts, statutes, laws, resolves and amendments to the constitution, and to enact, adopt or reject the same at the polls independently of the general court; and the people also reserve to themselves the referendum, which is the power at their own option to approve or reject at the polls any act or resolve of the general court or any part or parts thereof.

The initiative shall be set in operation by petition to the general court requiring for an act or resolve the signatures of legal voters to the number of eight per cent of the total vote cast for governor at the last preceding election; and for an amendment to the constitution the signatures of legal voters to the number of fifteen per cent of said total vote. The full text of the measure so proposed shall be included in the petition.

Initiative petitions shall be filed in the office of the secretary of the commonwealth and may be so filed either before the general court assembles or within three weeks thereafter. The secretary shall transmit a copy of the petition without the signatures to each branch of the general court within four weeks after the general court assembles.

If a measure thus petitioned for, other than an amendment to the constitution, is not passed without amendment in that session, or if vetoed by the governor is not passed over his veto, it shall be referred to the people at the next state election, together with such amended form as the general court may recommend; but such amended form shall not take effect unless approved by the people at such election. If passed without amendment it shall still be subject to a referendum petition.

If the measure thus petitioned for is an amendment to the constitution it shall be referred to the people at the next state election together with such amended form as the general court may recommend.

The referendum may be ordered either by the general court, by a majority yea and nay vote of all the members of each house, or by petition requiring the signatures of legal voters to the number of five per cent of the total vote cast for governor at the last preceding election.

Such petition shall be filed in the office of the secretary of the commonwealth within ninety days after the act or resolve shall have been signed by the governor or passed over his veto. A referendum may be ordered against the whole or against one or more sections or parts of any act or resolve.

An act or resolve shall not take effect until the expiration of ninety days after it shall have been signed by the governor or passed over his veto, except such as shall be declared to be an emergency measure. Such declaration shall be made in a preamble which shall state the facts constituting the emergency and contain the statement that therefore the act or resolve is necessary for the immediate preservation of the public peace, health or safety. A special vote shall be taken on the preamble separate from the vote on the act or resolve or any part of it, and a two thirds yea and nay vote of all the members of each house shall be required for the adoption of the preamble. No grant of any franchise or renewal or extension thereof either in respect of time or the area of its operation shall be declared to be an emergency measure. Any measure or part thereof upon which a referendum has been ordered shall either as to the whole or such part thereof be suspended from taking effect until it becomes law on approval by the people, except that an emergency measure shall take effect as therein provided.

Measures referred to the people of the commonwealth shall be voted on at the next regular state election.

A measure submitted to the people shall become law or a part of the constitution if approved by a majority of the votes cast thereon, and shall take effect at the expiration of thirty days after the election at which it was approved or at such time after the expiration of said thirty days as may be therein provided. An emergency measure, or any section or part thereof, shall upon referendum become void at the expiration of thirty days after the election at which it shall have been disapproved by a majority of the votes cast thereon.

The veto power of the governor shall not extend to measures approved by the people.

Measures approved by the people at any one election and in conflict in one or more of their provisions shall all take effect as to provisions not in conflict. In each case of conflicting provisions in such measures, that one of the provisions in conflict shall take effect which was contained in that one of such measures which received the greatest number of affirmative votes, and all others of such conflicting provisions shall become void.

The enacting style in making and passing all acts, statutes, and laws by the general court, both those originating in either branch of the general court and those proposed by initiative petition, shall be—"Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same." The enacting

style of all acts, statutes and laws, both those in a form proposed by initiative petition and passed by the people and those in a form recommended by the general court and approved by the people, shall be—"Be it enacted by the people of the Commonwealth of Massachusetts and by the authority of the same"; and of all acts, statutes, and laws approved upon referendum shall be—"Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same and by the approval of the people upon referendum."

Every measure referred to the people shall be described on the ballots clearly and simply by the secretary of the commonwealth subject to review by a court of equity.

The secretary of the commonwealth shall print and distribute to each voter a sample ballot together with the full text of every measure to be submitted to a vote of the people, and the general court shall provide for public dissemination of information and arguments thereon.

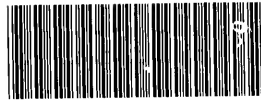
In carrying out the provisions of this amendment, which shall be self-enforcing, the secretary of the commonwealth and all other officers are to be guided by the general laws and by the terms of this amendment until further provisions shall be made therefor by legislation.

All provisions in the existing constitution inconsistent with the provisions herein contained are hereby wholly annulled.

This amendment follows closely the lines of the Oregon enactment which has been working so well since 1902. It differs, however, in requiring that each measure proposed by initiative petition shall go first to the legislature and be transmitted to popular vote only if the legislature refuses to pass it unamended, or unless a referendum be demanded upon it after passage by the legislature; also in requiring a larger number of signers for constitutional amendments than for other measures.

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